

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

VICTORIA JOHNSON,) CASE NO. 1:13 CV 2012
)
Plaintiff,) JUDGE DONALD C. NUGENT
)
vs.)
ANSWER TO COMPLAINT
UNIVERSITY HOSPITALS,)
) (Jury Demand Endorsed Hereon)
Defendant.)
)

University Hospitals Health Systems, Inc. (“UHHS”),¹ by and through undersigned counsel, answers the allegations in Plaintiff’s Complaint as follows:

ANSWER TO JURISDICTION

1. In answer to Paragraph 1 of the Complaint, UHHS admits that jurisdiction over Plaintiff’s claims is proper, but UHHS denies the remaining allegations contained in Paragraph 1 and denies engaging in any activity which gives rise to any claims for relief.
2. UHHS denies for lack of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint.

ANSWER TO VENUE

3. In answer to Paragraph 3 of the Complaint, UHHS admits that venue over Plaintiff’s claims is proper, but UHHS denies engaging in any activity which gives rise to any claims for relief.

ANSWER TO THE PARTIES

4. UHHS denies the allegations contained in Paragraph 4.

¹ There is no such entity as “University Hospitals” doing business in the State of Ohio. “University Hospitals” is a registered trade name of UHHS. UHHS never employed Plaintiff. In an abundance of caution, however, UHHS assumes that Plaintiff intended to file suit against UHHS and therefore submits this Answer.

5. In answer to the first sentence of Paragraph 5 of the Complaint, UHHS admits that it is a non-profit corporation organized and existing under the laws of Ohio. The second sentence of Paragraph 5 of the Complaint requires no answer because it states legal conclusions, but, further answering, to the extent any fact is alleged, UHHS denies the allegations contained in the second sentence of Paragraph 5.

ANSWER TO FACTUAL ALLEGATIONS

6. In answer to Paragraph 6 of the Complaint, UHHS incorporates by reference, as if fully rewritten herein, all prior responses of this Answer.

7. UHHS denies the allegations contained in Paragraph 7 of the Complaint.
8. UHHS denies the allegations contained in Paragraph 8 of the Complaint.
9. UHHS denies the allegations contained in Paragraph 9 of the Complaint.
10. UHHS denies the allegations contained in Paragraph 10 of the Complaint.
11. UHHS denies the allegations contained in Paragraph 11 of the Complaint.
12. UHHS denies the allegations contained in Paragraph 12 of the Complaint.
13. UHHS denies the allegations contained in Paragraph 13 of the Complaint.
14. UHHS denies the allegations contained in Paragraph 14 of the Complaint.
15. UHHS denies the allegations contained in Paragraph 15 of the Complaint.
16. UHHS denies the allegations contained in Paragraph 16 of the Complaint.
17. UHHS denies the allegations contained in Paragraph 17 of the Complaint, except

UHHS admits that Plaintiff filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission.

18. UHHS denies the allegations contained in Paragraph 18 of the Complaint.
19. UHHS denies the allegations contained in Paragraph 19 of the Complaint.
20. UHHS denies the allegations contained in Paragraph 20 of the Complaint.

ANSWER TO FIRST CLAIM FOR RELIEF

21. In answer to Paragraph 21 of the Complaint, UHHS incorporates by reference, as if fully rewritten herein, all prior responses of this Answer.
22. UHHS denies the allegations contained in Paragraph 22 of the Complaint.
23. UHHS denies the allegations contained in Paragraph 23 of the Complaint.
24. UHHS denies the allegations contained in Paragraph 24 of the Complaint.

ANSWER TO SECOND CLAIM FOR RELIEF

25. In answer to Paragraph 25 of the Complaint, UHHS incorporates by reference, as if fully rewritten herein, all prior responses of this Answer.
26. UHHS denies the allegations contained in Paragraph 26 of the Complaint.
27. UHHS denies the allegations contained in Paragraph 27 of the Complaint.
28. UHHS denies the allegations contained in Paragraph 28 of the Complaint.

DEFENSES

29. The Complaint fails to state a claim upon which relief can be granted against UHHS.
30. Plaintiff's claims are barred to the extent she failed to follow the administrative prerequisites for the filing of her Complaint.
31. Plaintiff's claims are barred by the applicable statute of limitations.
32. UHHS never employed Plaintiff.
33. Plaintiff's claims are subject to the after-acquired evidence doctrine.
34. UHHS did not cause any of the damages allegedly suffered by Plaintiff.
35. The claims set forth in the Complaint are barred by the doctrine of unclean hands, estoppel, waiver and/or other behavior by Plaintiff.

36. Any employment actions taken with respect to Plaintiff were taken for legitimate, non-retaliatory and non-discriminatory business reasons, in good faith, without malice, and in a fair and equitable manner so as to bar the claims asserted in Plaintiff's Complaint.

37. There was no negligence, gross negligence, misconduct, willful misconduct or malice (actual, legal or otherwise) on the part of UHHS as to Plaintiff.

38. Plaintiff's damages are not recoverable because they are remote and speculative.

39. To the extent Plaintiff was injured, which UHHS denies, Plaintiff's injuries were caused, in full or in part, by her own conduct and her own acts, omissions and/or breach of duty.

40. Plaintiff's claims are barred, in full or in part, by her failure to mitigate.

41. UHHS would have taken the same actions regardless of Plaintiff's alleged disability or perceived disability.

42. UHHS would have taken the same actions regardless of Plaintiff's exercise of her rights under state and federal law.

43. UHHS acted at all times without intent to discriminate or retaliate against Plaintiff or interfere with her rights.

44. UHHS acted at all times in a good faith effort to comply with all relevant state and federal laws and with its own policies.

45. The damages as alleged are limited by Ohio statutory law.

46. UHHS hereby gives notice that it intends to rely on defenses that may become available or appear during the discovery proceedings in this case and hereby reserves the right to amend this Answer to assert any such defenses as they become available.

WHEREFORE, having fully answered, UHHS requests that the Complaint be dismissed with prejudice and that UHHS be granted its costs, expenses and such other and further relief as

this Court deems just and equitable.

Respectfully submitted,

/s/ Rachael L. Israel

Kerin Lyn Kaminski (0013522)

Rachael L. Israel (0072772)

GIFFEN & KAMINSKI, LLC

1300 East Ninth Street, Suite 1600

Cleveland, Ohio 44114

Telephone: (216) 621-5161

Facsimile: (216) 621-2399

E-mail: kkaminski@thinkgk.com

risrael@thinkgk.com

***Attorneys for Defendant University Hospitals
Health System, Inc.***

JURY DEMAND

UHHS hereby demands a trial by the maximum number of jurors permitted by law as to all issues in this action.

/s/ Rachael L. Israel

***Attorney for Defendant University Hospitals
Health System, Inc.***

CERTIFICATE OF SERVICE

A copy of the foregoing *Answer to Complaint* has been filed electronically this 12th day of September 2013. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Rachael L. Israel
**Attorney for Defendant University Hospitals
Health System, Inc.**